IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7414 OF 2006

Shri.Nagappa Shivshankar Awase & Ors. ... Petitioners

V/s.

Shri.Sanjay Manik More @ Sanjay Gourishankar Awase & Ors. ... Respondents

Mr.Shrishail Sakhare for the petitioners.

CORAM : A.P.DESHPANDE, J.

DATED : 13th November, 2006

P.C.

The petitioners' challenge the order dated 10/08/2006 passed by the Trial Court permitting impleading of widow of Mhadappa, daughter of Mhadappa and son of Mhadappa. The petitioners' dispute that the parties who are directed to be impleaded under Order 1 Rule 10 are the legal heirs of the Mhadappa. The petitioners' are claiming declaration that they are the sole legal heirs of Gourishankar. Gourishankar died issuless and hence in absence of class one heirs, the petitioners' who claim to be class two heirs are seeking declaration that they are sole legal heirs of Gourishankar. Whereas the applicants before the Trial Court under Order 1 Rule 10 claim to be the heirs of

Mhadappa, since deceased. Mhadappa, Shivshankar and Gourishankar are real brothers and thus the applicants before the Trial Court stand at the same footing at which the plaintiffs' stand. Perused the order passed by the Trial Court. The Trial Court has found it appropriate to permit the impleadment of applicants before it, by exercising judicious discretion. I have perused the order. The same does not call for interference. At this stage, the learned counsel for the petitioners submit that the entire evidence is over and the parties have not laid evidence touching the genuineness of the claim of the applicants to their relation with Mhadappa. If this be so, the petitioners shall have liberty to move the Trial Court by making an appropriate application in that regard, which the Trial Court shall consider and decide in accordance with law.

C.C. Expedited.

(A.P.DESHPANDE,J)